

**BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

In the Matter of:

TRANSURE EXPRESS, LLC,

Respondent.

**Docket No. FMCSA-2010-0133¹
(Eastern Service Center)**

ORDER TERMINATING PROCEEDING AND CLOSING DOCKET

On March 5, 2010, the New York Division Administrator, Federal Motor Carrier Safety Administration (FMCSA) served a Notice of Claim (NOC) on Respondent, proposing a civil penalty of \$7,460 for one violation of 49 CFR 172.800(b), offering or transporting hazardous materials without a security plan.

On April 13, 2010, the Acting Field Administrator for FMCSA's Eastern Service Center (Claimant) served a Notice of Default and Final Agency Order (NDFAO) based upon Respondent's alleged failure to file a timely reply to the NOC. The NDFAO advised Respondent that the NOC would become the Final Agency Order in this proceeding effective April 19, 2010, with the civil penalty immediately due and payable on that date.

On April 15, 2010, Respondent served a Petition for Reconsideration of the Final Agency Order. Respondent asserted that it served a timely response to the NOC on April 5, 2010 and attached a copy of the reply to the petition. Therefore, it contended it was not in default and the NDFAO should be vacated. On August 13, 2010, Claimant served a Request for Leave to File a Response to the Petition for Reconsideration and a Motion

¹ The prior case number was NY-2010-0318-US0773.

to Dismiss.² Claimant stated that she closed this matter without enforcement on April 16, 2010 and attached a copy of a letter advising Respondent of that fact. Therefore, the Petition for Reconsideration is moot and Claimant's motion to dismiss is granted.

THEREFORE, *It Is Hereby Ordered*, this proceeding is terminated and the docket is closed.



Rose A. McMurray
Assistant Administrator
Federal Motor Carrier Safety Administration

9.3.10

Date

² The request for leave is granted.

CERTIFICATE OF SERVICE

This is to certify that on this 1 day of September, 2010, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

F. Brendan Burke, Jr., Esq.
McGee & Gelman
200 Summer Street
P.O. Box 5206
Buffalo, NY 14213-5206

One Copy
U.S. Mail

Anthony G. Lardieri, Esq.
Trial Attorney
Office of Chief Counsel (MC-CCE)
Federal Motor Carrier Safety Administration
802 Cromwell Park Drive, Suite N
Glen Burnie, MD 21061

One Copy
U.S. Mail

Loretta Bitner, Acting Field Administrator
Federal Motor Carrier Safety Administration
802 Cromwell Park Drive, Suite N
Glen Burnie, MD 21061

One Copy
U.S. Mail

Brian K. Temperine
New York Division Administrator
Federal Motor Carrier Safety Administration
Leo W. O'Brien Federal Building, Room 815
Clinton Avenue & N. Pearl Street
Albany, NY 12207

One Copy
U.S. Mail

Docket Operations
U.S. Department of Transportation
1200 New Jersey Avenue SE
Room W12-140
Washington, DC 20590

Original
Personal Delivery


